

1 LEON SMITH,)
2 Petitioner,)
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4 v.) No. CR-02-40123-DLJ
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UNITED STATES OF AMERICA,) ORDER
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On June 27, 2008, Petitioner Leon Smith filed a document bearing the heading "Credit For Halfway House, (CCC) Case No. CR-02-40123-DLJ/." In this document, Petitioner requests reconsideration of the Court's order dated April 18, 2008, in which the Court denied Petitioner's request for credit for time served at a halfway house. In support of his request for reconsideration, Petitioner alleges that during Petitioner's sentencing hearing, the Court stated it "would give [Petitioner] this time credit, but the Bureau of Prison would take it away." In essence, Petitioner asserts the Court stated on the record that Petitioner was entitled to credit for time served at the community treatment center.

The Court has obtained a transcript of Petitioner's November 14, 2003 sentencing hearing. The transcript reveals that, at the hearing, the Court made no indication that it would - or could - grant the requested credit. To the contrary, when asked by defense counsel whether the Bureau of Prisons gives "credit for time served spent in Cornell Corrections," the Court replied, "No, that's not credit for time served so that he shouldn't expect to get credit

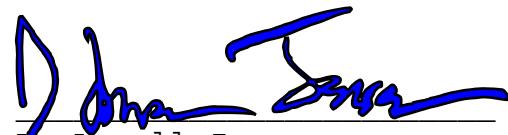
United States District Court
For the Northern District of California

1 for time served on that." Reporter's Transcript at 15:5-8. As
2 noted in the Court's April 18 order, this statement was in
3 accordance with the law. See Reno v. Koray, 515 U.S. 50, 65 (1995)
4 (holding time spent at a community treatment center while on pre-
5 trial detention is not "official detention" within the meaning of
6 18 U.S.C. § 3585(b) and does not therefore count as credit for time
7 served against a sentence of imprisonment). Even assuming the law
8 recognized time spent in a halfway house as "official detention,"
9 authority to issue credit for time served rests with the Bureau of
10 Prisons, not with the Court.

12 Petitioner's Motion is DENIED.
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16 IT IS SO ORDERED

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18 Dated: September 5, 2008
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D. Lowell Jensen
United States District Judge